

# Search and Seizure Bulletin™

INDEX 1994 JANUARY — DECEMBER

	Month	Page		Month	Page
<b>Abandoned Property</b>			Consent Form Read and Explained in Spanish,		
Arrestee Claims Illegal Seizure, Nettles (WA) .....	Apr.	6	Freyre (FL) .....	Mar.	4
Drugs Abandoned in Taxi, Scott (NY) .....	Apr.	7	Consent Implied By Conduct, Brown (TX) .....	Feb.	7
Homeless Claim Program Adopted to Clean Up Streets			Defendant Knowingly Waived His Rights —		
Is Unlawful Seizure of Property, Joyce (CA) .....	Oct.	3	Evidence Properly Admitted, Shane (IN) .....	Jan.	7
Officer Searches Parked Car and Finds			Does Search of Juice Container Pertain to Detention of		
Bullets, Barlow (TX) .....	Oct.	3	Illegal Alien?, Griffiths (NY) .....	Dec.	7
Suspect Denies Ownership of Drug Bag in Taxi			Does Train Passenger in Sleeping Compartment		
Trunk, Perea (NY) .....	Nov.	8	Have Reasonable Expectation of Privacy?,		
			Girolamo (NM) .....	Nov.	2
<b>Airport Search</b>			Driver Complains Consent Only Applies to Truck		
Arrestee Argues Officer Should Have Obtained			Cab and Not Undercarriage Where Cocaine Was		
Warrant Before Search, Figueroa Cruz (PR) .....	Jan.	8	Found, Nicholson (UT) .....	Aug.	8
			Drug Suspect's Home Searched, Hidalgo (GA) .....	May	3
<b>Body Search</b>			Illiterate Suspect Claims She Did Not Understand		
Arrestee Tried to Swallow Evidence, Harris (NE) .....	Apr.	2	Consent Form, Tavaréz (PR) .....	June	6
			Informant Summons Agents — Did Consent Exist?,		
<b>Border Search</b>			Jachimko (IL) .....	Oct.	4
Agent Uses Suspects' Nervousness to Justify Search,			Iranian Nationals Searched — Counterfeit Credit		
Galloway (NM) .....	June	2	Cards Found, Tehrani (VT) .....	Feb.	8
Border Agent Suspects Drugs in Gas Tank,			Officers Created Exigent Circumstances — Consent		
Rascon-Ortiz (NM) .....	Jan.	8	Must Be Voluntary, Richard (LA) .....	Jan.	6
Border Checkpoint Stop Not Pretextual, Maestas (NM) ..	Apr.	7	One Suspect Told Other Suspect to Cooperate		
Suspect Claims Border Search Doctrine Applies to			With Police — Consent Voluntary?,		
Vehicles Only, Cardenas (TX) .....	July	4	Arias-Villanueva (OR) .....	Feb.	6
			Roadblock-Type Search at Employee Parking Lot,		
<b>Canine Search</b>			McGann (IL) .....	May	3
Information on Canine Search Omitted From			Suspect Had Apparent Authority to Consent to Search		
Warrant, Frost (PA) .....	Apr.	5	of Duffel Bag in Trunk of Car, Maristany (NJ) .....	Jan.	7
			Suspect Handcuffed to Chair During Questioning —		
<b>Consent</b>			Coercion?, Navedo-Colon (PR) .....	Feb.	7
Agents Ask Permission To Search Car — Was Driver's			Suspect Refuses to Give Permission for Luggage		
Consent Voluntary?, Hernandez (NY) .....	Apr.	5	Inspection, Lambert (KS) .....	June	6
Agents in Helicopter See Marijuana Patch — Did			Voluntary Consent to Search After DEA Agents		
Owner Allow Police Search?, Cody (OK) .....	June	5	Served Warrant at 6 a.m., Gillett (MI) .....	Apr.	4
Apartment Occupant Gives Verbal Consent Only —			Warrantless Search for Stolen Firearms — Wife Allows		
Was Search Illegal?, Martinez (KS) .....	Sept.	5	Cohort to Retrieve Husband's Gun, Lowe (CO) .....	Apr.	5
Bank Robbery Suspect Challenges Evidence Found			Wife Consents to Search If Husband Also Consents,		
Before He Signed Consent Form, Gleason (IA) .....	Dec.	6	Betts (IL) .....	Aug.	7
Can Rescued Victim Authorize Search of			Woman Consents to Search After Police Threaten		
Kidnapper's Home?, Johnson (MI) .....	Nov.	2	to Have Her Child Removed by Children's		
			Services Agency, Matteuci (OR) .....	Aug.	7

**Publisher:** E. Michael Quinlan, Esq. **Managing Editor:** James A. Bittker **Group Editor:** Stephanie Federico

**Associate Editor:** Michael Handler, Esq. **Assistant Editor:** Elin Dugan **Legal Editors:** Carol Johnson Perkins, Esq., Michael T. Borruso, Esq.

The entire content of this newsletter is copyrighted by the publisher and may not be copied without prior permission. Contact Copyright Clearance Center (508) 750-8400 for permission to photocopy for internal use. Contact publisher for other reprint requests. The publisher is not engaged in rendering legal or other professional advice, and assumes no responsibility for the statements and opinions of the writers or contributing editors. Case law and statutes change without notice from time to time and are often specific to one jurisdiction only. The information herein is not intended to be, nor should it be considered, a substitute for legal or professional advice rendered by a competent attorney or other professional. If you have any questions about the application of issues raised herein to your particular situation, seek the advice of a competent attorney or other professional.

This bulletin is available on microfilm from University Microfilms International, Ann Arbor, MI

Published by

**Quinlan**  
PUBLISHING COMPANY

**Search and Seizure Bulletin**

23 Drydock Ave., Boston, MA 02210-2387 (617) 542-0048

(ISSN 0037-0193)

Copyright © 1994

	Month	Page		Month	Page
<b>Drug Testing</b>			Police Search Couple's Personal Belongings While		
Mandatory Urinalysis of Customs Employees,			Investigating Nurse Suspected of Practicing Medicine		
National Treasury Employees Union (DC) .....	Apr.	8	Without License, Hummel-Jones (MO) .....	Dec.	5
Seventh Grade Football Hopeful Refuses to Consent to			Police Take Aerial Photographs of Marijuana In		
Drug Test, Acton (OR) .....	Dec.	8	Greenhouse, Van Damme (MT) .....	Feb.	4
<b>Electronic Device</b>			Police Use "Night Vision" Glasses to Observe		
Agents Wiretap Phones of Organized Crime Family			Alleged Criminal Activity in Car, Wacker (OR) .....	Apr.	8
Members, Casso (NY) .....	Sept.	4	Suspect Used Tree to Hide Cocaine, Johnson (PA) .....	Sept.	2
Disruptive Student Objects to Videotape Made in			Suspects Challenge Canine Search — Expectation		
Classroom, MR, by his next friend and			of Privacy, Lingenfelter (CA) .....	Mar.	8
father, RR (ND) .....	Sept.	5	Suspects Had No Standing to Challenge Search of		
Is Tracking Device on Stolen Property an Invasion			Motor Vehicle, Vizcarra (AZ) .....	Sept.	2
of Thief's Privacy?, Nored (TX) .....	Nov.	7	Tenant Failed to Vacate Property — Cleaners Find		
Marijuana Growing Operation Discovered Based on			Drugs, Ramos (AL) .....	July	2
Thermal Imaging Surveillance, Ishmael (TX) .....	Aug.	5	Train Passenger Questioned in Room — Drugs Found		
Police Use Thermal Imager to Detect Marijuana			in Luggage, Little (NM) .....	Oct.	2
Growing Operation, Porco (WY) .....	Aug.	6	Warrantless Search During Child Abuse Investigation,		
			Franz (KS) .....	Mar.	8
			Was Use of Narcotics Dog Illegal?, Ludwig (NM) .....	Sept.	3
<b>Entry</b>			<b>Frisk</b>		
Agents Stay in Suspect's Apartment for 13 Hours Before			Contraband Found During Protective Pat Down,		
Search Warrant Is Issued, Leaks (NY) .....	Dec.	8	Johnson (PA) .....	June	4
Force of Officer's Knock Opens Door, Kemp (DC) .....	July	8	Did Bulge in Pants Pocket Justify Frisk for		
Officer Enters Garage to Arrest Suspected Drunk			Weapons?, Brooks (MO) .....	Mar.	3
Driver, Baker (AZ) .....	June	3	Officer Frisks for Weapons, Searches Closed		
Officers Enter Motel Room Looking for Injured			Container, Phillips (VA) .....	Apr.	6
Person, Find Drugs Instead, Arch (IN) .....	June	2	Suspect's Attitude Alerts Officer to Possible Risk,		
Officers Secure Apartment Before Obtaining			Michelletti (TX) .....	Dec.	7
Search Warrant, Sargent (OR) .....	June	3	<b>Illegal Search</b>		
Police Storm House Early in the Morning — Waking			Administrative Inspection Performed to Search for		
Woman and Her Children, Ward (NM) .....	Sept.	6	Stolen Vehicles, Proffitt (TN) .....	Aug.	2
<b>Exigent Circumstances</b>			Arrestee Claims Automobile Stop, Strip Search		
Does Federal "Knock and Announce" Law Apply to			Lacked Probable Cause, Cottrell (UT) .....	Jan.	2
Local Police?, Murcer (DE) .....	Dec.	4	Did Exigent Circumstances Justify Apartment Search?,		
Gun Case In Plain View in Suspect's Car,			Dawkins (DC) .....	Aug.	2
Hendrix (PA) .....	Feb.	3	Did Government Participate in Search of Stolen		
Suspect Moves Drug Sale to New Location,			Files?, Knoll (NY) .....	Aug.	2
Parris (MO) .....	Aug.	8	Did Officers Exceed Scope of Warrant?,		
<b>Expectation of Privacy</b>			Mittelman (CA) .....	Feb.	2
Arrested Auto Passenger Claims He Did Not Consent to			Does Improper Evidence Invalidate Warrant?,		
Search, Lewis (KS) .....	Dec.	5	Markling (WI) .....	June	2
Convicted Felon Leaves Weapons in His Mother's			Drugs, Firearms Seized During Search — Was		
Apartment, Burgess, (SC) .....	July	3	Warrant Invalid?, Ruiz (KS) .....	Jan.	2
Did Committee Have Right to Review Senator's			Evidence Suppressed After Two Illegal Searches,		
Personal Diaries?, Packwood (DC) .....	Sept.	2	Clark (NY) .....	Jan.	2
Did Driver's Consent to Search Include			Involuntary Abandonment of Airport Luggage,		
Passenger's Briefcase?, Infante-Ruiz (PR) .....	July	2	Mendez (TX) .....	Mar.	2
Dog Alerted to Car and Motel Room Door,			Police Search Passenger Who Made Sudden		
Marlar (MS) .....	Mar.	7	Movement, Chism (NY) .....	May	2
Is Mayor's Appointment Book a Public Document?,			Prison Officials Strip Search Visitor, Looking for Drugs,		
Mancini (RI) .....	June	6	Garcia (NM) .....	May	2
Kidnapped Girlfriend Consents to Search of Her Own Car			Search Went Beyond Scope of Warrant, Abram (KS) .....	Apr.	2
for Evidence Against Kidnapper, Moore (NY) .....	Dec.	5	Suspect Was Not Free to Leave Train Car,		
Marijuana Grower Challenges Use of Infrared Device that			Berrios (DC) .....	Apr.	2
Shows Comparative Surface Temperatures,			<b>Informant</b>		
Pinson (MO) .....	Dec.	6	Affidavit Does Not Vouch for Confidential Informant's		
Police Observe Man Selling Drugs Stored in			Reliability, Fisher (TX) .....	Nov.	5
Telephone Pole, Meredith (NY) .....	Oct.	2	Agent's Corroboration of Unknown Source Provides		
			Probable Cause, Olson (MN) .....	Nov.	5

	Month	Page		Month	Page
Arrestee Asks Court to Disclose Suspect's Identity, Higgins (ME) .....	Jan.	6	Narcotics Dog Detects Cocaine in Van After Informant's Tip, Pasquarille (TN) .....	Nov.	4
Is First-Time Informant Reliable?, Bush (CT) .....	July	8	Outdoor Marijuana Cultivation Supports Search of Residence, Emmons (KS) .....	Dec.	2
Is Informant's Tip About Drugs in Foil-Wrapped Package Knowingly False?, Jett (MS) .....	Nov.	6	Parking Ticket in Homicide Victim's Car Linked to House of Suspect's Sister, Welborn (IL) .....	Nov.	4
<b>Inventory Search</b>			Police Seize Money in Gambler's Safety Deposit Box, Schwabensland (TX) .....	Oct.	8
Car Impounded Following Traffic Stop for Speeding, Harvey (MI) .....	Aug.	3	Suspect's Fingerprints Found on Rape Victim's Door, Haynes (AR) .....	May	5
Impounded Car Searched a Week After Seizure, Decker (MI) .....	Oct.	7	<b>Protective Search</b>		
Officer Flips through Suspect's Notebook During Inventory Sweep, Andrews (MS) .....	Nov.	8	Police Lift Mattress — Was Scope of Search Exceeded?, Crooker (MA) .....	July	4
Search of Impounded Car One Month After Seizure, Gastiburo (VA) .....	Aug.	3	<b>Roadblock</b>		
Search of Impounded Car Two Months After Initial Seizure, Casares-Cardenas (MN) .....	Aug.	4	Drunk Driver Challenges Random Vehicle Checkpoint at Air Force Base, Santiago (WY) .....	Oct.	2
<b>Investigative Stop</b>			Troopers Set Up Checkpoint Without Authorization, Sanchez (TX) .....	Feb.	4
Dispute Over When Officer Seized Fleeing Suspect, Perez (FL) .....	Jan.	3	<b>Search Incident to Arrest</b>		
Officers Believe Suspect Is Transporting Guns, Watts (MN) .....	June	7	Did Inventory Search Violate Suspect's Rights?, Shelton (MO) .....	Sept.	3
<b>Plain View</b>			Officer Arrests Driver for Not Having Insurance, Finds Cocaine in His Pocket, Vela (TX) .....	Sept.	4
Agents Seize Evidence in Plain View During Protective Sweep, Fuller (NY) .....	Oct.	8	Officer Stops Driver Who Had Suspended License — Marijuana Found, Mans (TN) .....	Mar.	3
Customs Agents Seize Office Documents Not Specifically Listed on Warrant, Menon (NJ) .....	Dec.	4	Police Search Suspect's Pocket, Make Inventory Search of Truck's Ashtrays, Ponce (TX) .....	May	7
DEA Agent Finds Hidden Compartment Under Tractor Trailer, Diotte (NY) .....	Nov.	2	<b>Seizure</b>		
Is Empty Ammunition Box Relevant Evidence in Drug and Murder Case?, Cooper (IL) .....	Oct.	7	Baggage Held More Than Two Hours Before Dog Sniff, \$191,910 in United States Currency (CA) .....	Aug.	5
Officer Sees Driver Trying to Hide Cocaine, Sailor (CT) .....	Aug.	4	Drug Trafficker's Luggage Contained 24 Kilos of Cocaine — Was Seizure Justified?, Loyd (IL) .....	July	7
Officer Sees Gun in Suspect's Open Purse, McKnight (MO) .....	Aug.	4	Officer Notices Unidentifiable Chemical Smell — Illegal Seizure?, McKneely (UT) .....	May	8
Officers Used Ruse to Gain Entry to Apartment — Package in Plain View, Garcia (CA) .....	Feb.	3	Officers Take Money From Airline Passenger Without Charging Him With Any Crime, \$7,850 in United States Currency (MN) .....	June	5
Police Investigating Alleged Assault Discover Weapon and Drugs, Spencer (NY) .....	Apr.	8	Police Seize Sneakers Worn by Bank Robbery Suspect, Zanfordino (NY) .....	May	7
Seizure and Search of Rifle Justified Under Plain View Doctrine, Simpson (AZ) .....	Sept.	8	Safety Deposit Boxes — Proper Notice, Giovannelli (NY) .....	Feb.	8
Suspect Flees Moving Car — Guns Left on Seat Seized, Wilson (WI) .....	Mar.	2	Suspect Arrested Twice for Drug Possession — Argues Seized Evidence Should Be Suppressed, Johnson (MO) .....	July	7
Tracking System Traces Holdup Suspect to Motel, Buchner (TX) .....	June	5	Warrantless Search For Weapons — Documents Seized — Could Copies Be Made to Aid Foreign Investigation?, Ramsden (CA) .....	Mar.	3
<b>Probable Cause</b>			Warrantless Seizure of Trailer With Disputed Ownership, Smith (OK) .....	May	7
Affidavit Describing Drug Sales at One Location Used for Search at Another Location, Pitts (WA) .....	May	6	<b>Student Search</b>		
Convicted Dealer Claims Informant's Information Was Stale, Stiver (PA) .....	May	5	Student Has Bag of Cocaine in His Pocket, Serna (AZ) ..	July	6
Conviction for Child Pornography Upheld, Harvey (PA) .....	Mar.	4	Teachers Insist on Inspecting Students' Bags Before Excursion, Desilets (NJ) .....	June	4
Government Agents Detain Occupants of House During Search, Fountain (MI) .....	May	6	<b>Traffic Stop</b>		
Grocery Store Searched and Forfeited After Owner Sells Drugs to Informant, One Parcel Property Located at 427 & 429 Hall St., Montgomery (AL) ...	Nov.	5	Automobile Search — Did Police Have Probable Cause to Stop Vehicle?, Stapleton (MS) .....	Oct.	6
Man Caught Delivering Drugs Cooperates With Police to Bust Marijuana Growers, Bieri (MO) .....	Nov.	4			

	Month	Page		Month	Page
Drugs Found Under Car Seat — Were Driver's Rights Violated?, Littlepage (AR) .....	July	3	Pornographic Materials Seized — Was Warrant Specific Enough?, Multi-Media Distributing Co. Inc. (IN) .....	July	6
Motorist Stopped for Broken Headlight — Canine Sniff Indicates Drug Activity, Jeffus (NC) .....	Nov.	3	Probable Cause — Illegal Substances Found in Search of Residence, Lawson (OH) .....	Mar.	6
Officer Finds Crack Cocaine in Glove Compartment After Speeding Stop, Sharpe (KS) .....	Oct.	5	Probable Cause — Sufficient Evidence of Marijuana Growing Operation, Burke (ME) .....	Mar.	7
Officer Pulls Motorist Over for Driving Erratically — Sees Gun, Lloyd (OK) .....	July	3	Prosecutor Requests Search of Officer's House for Files — Did He Have Probable Cause?, Davison (MI) .....	Sept.	8
Police Find Cocaine in Hollowed Truck Bed — Driver Claims Unlawful Detention, Gonzalez-Lerma (UT) ...	Oct.	5	Reappearance of Items Supposedly Destroyed in Fire — Did Owners Commit Arson?, Miller (FL) .....	Dec.	2
Suspect Claims Officer Coerced His Permission to Search, Sanchez-Valderuten (UT) .....	Oct.	6	Search Conducted Before Warrant Issued, Johnson (MO) .....	July	6
<b>Warrant</b>			Search Warrant Defective — Does Good Faith Exception Apply?, Lalor (MD) .....	Feb.	5
Affidavit Based on Information From Informant — No False Statements Made Recklessly or Deliberately, Brown (PA) .....	Mar.	5	Search Warrants Contain Errors, Valentine (MO) .....	Jan.	5
Affidavit Contained Sufficient Facts To Justify Search, Conley (PA) .....	Apr.	3	To Protect Informant, Oral Testimony to Support Warrant Not Recorded, Clyburn (SC) .....	Dec.	2
Anticipatory Warrant Obtained In Pornography Distribution Case, Ricciardelli (MA) .....	Feb.	6	Warrant Authorizes Seizure of "Fruits and Instrumentalities" of Carjacking, Robertson (OK) ...	Nov.	7
Arrestee Contends Affidavit Contained Misleading Statements, Ayen (MI) .....	Feb.	5	Warrant Defective — Insufficient Description of Place to Be Searched, Williamson (NM) .....	Mar.	5
Company Charged With Customs Fraud — Was Warrant Valid?, Zhang Jian Zhong (NY) .....	July	5	Warrant for Mobile Home Based on Informant's Firsthand Observation, Buckley (WI) .....	Apr.	3
Company Seeks to Block Administrative Search, Matter of Kelly-Springfield Tire Co. (IL) .....	July	5	Warrant Provision Allowing Search of Containers Deleted, Burch (MD) .....	July	5
DEA Agent Examined Garbage, Used Heat Detection Device to Obtain Evidence of Marijuana Growing, Deaner (PA) .....	Mar.	6	Warrants Did Not Include Dates of Surveillance, McKeever (LA) .....	Apr.	4
Did Federal Rule Require Search to Be Conducted in Daytime?, Palmer (WA) .....	Mar.	5	Warrants Disputed in Consumer Product Fraud Scheme, Hughes (IN) .....	Jan.	6
Did Officer Improperly Enter Driveway of Nudist's Remote Property?, Depew (ID) .....	May	4	Warrant Obtained Using False Statements on Source of Information, Siligato (NJ) .....	May	4
Investigators Use Information From Minor to Authorize Search, Rinehart (MT) .....	June	8	Was Information From Informant Credible?, Oliveira (MA) .....	June	8
Items Seized Within Scope of Warrant, Turley (KS) .....	Apr.	3	Was Seizure of Check Stubs Within Scope of Warrant?, Hill (TX) .....	Oct.	4
Justice Gives Oral Permission to Change Room Number on Warrant, Furlong (MT) .....	Sept.	6	Was There Enough Evidence of Drug Operation to Justify Search?, Casanova (NY) .....	June	7
Neighbors of Suspected Heroin Dealer Sue After Officers Search Their House, George (MO) .....	Dec.	3	Was Warrant Based on Stale Application Information?, Harris (GA) .....	Nov.	6
"No-Knock" Warrant Challenged, Moland (CO) .....	Jan.	6	Wrong Officer Swears to Affidavit, Hyten (MN) .....	Apr.	4
Officer Waits Before Executing Search — Was Warrant Stale?, Williams (MO) .....	Sept.	7			
Officers Search Car After Warrant Expires, Gerber (FL) .....	Jan.	4	<b>Warrantless Search</b>		
Officers Search Right House Although the Wrong Address Is Listed on Warrant, Johnson (FL) .....	Dec.	3	Board Authorizes Sweeps of Housing Projects for Security Reasons, Pratt (IL) .....	Nov.	6
Officers Seize Suspect Before Warrant Issued, Brown (GA) .....	Jan.	5	Detectives Suspect Train Passenger Has Drugs in Her Luggage — Detained for Dog Sniff, Jones (MO) .....	Jan.	3
Officers Use Bank Records to Get Warrant — Marijuana Found During Search, Jackson (OK) .....	Sept.	7	Officer Discovers Methamphetamine Lab, Bute (UT) .....	Jan.	4
Parole Violator Wants to Suppress Guns Seized Based on Warrant Issued by Telephone, Clutchette (MD) .....	Dec.	3	Police Had No Time to Obtain a Warrant, Perkins (KY) .	Jan.	4
Police Obtain Warrant to Search Apartment, Search Locked Safe, Jackson (NJ) .....	May	5	Police Search Bag Found in Suspect's Pocket, Mitchell (MI) .....	May	3
Police Search Bag of Two Young Bus Passengers Based on Their Clothing, Nervousness, and Statement, O'Neal (MN) .....	Sept.	7	Postal Inspectors Find Drugs in Employee's Locker, Broadus (MI) .....	May	2
			Suspect Consented to Agent's Entry and Search — Should Evidence Be Suppressed?, Grissom (KS) .....	Feb.	2
			Was Warrantless Search of Van Legal?, Harwood (VT) ..	Feb.	2

